

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 09 June 2005

Case No: 2005-STA-0026

In the Matter of

MICHAEL DRAKE,
Complainant,

v.

YELLOW TRANSPORTATION, INC.,
Respondent.

**RECOMMENDED DECISION AND ORDER APPROVING STIPULATION
OF DISMISSAL WITHOUT PREJUDICE**

This case arises under the "whistleblower" protection of Section 405 of the Surface Transportation Assistance Act of 1982 (hereinafter STAA), 49 U.S.C. § 31105, and the regulations at 29 C.F.R. Part 1978, as a result of a complaint wherein Michael Drake claimed to have received a written warning in retaliation for taking time off work due to a back condition, making it unsafe to drive a commercial motor vehicle. The investigation by OSHA revealed that the written warning was issued on February 15, 2005. On March 7, 2005, prior to the initiation of the OSHA investigation, Respondent rescinded the warning.

On June 8, 2005, the Parties submitted a Stipulation of Dismissal Without Prejudice. Upon review of the case record, I find that dismissal without prejudice is appropriate.

It is therefore ordered that the Stipulation of Dismissal Without Prejudice is hereby approved, and it is further ordered that the complaint be dismissed without prejudice.

A

LARRY W. PRICE
Administrative Law Judge

LWP/lpr
Newport News, VA

NOTICE: This Recommended Order Approving Settlement and the administrative file in this matter will be forwarded to the Administrative Review Board, U.S. Department of Labor,

Room S-4309, 200 Constitution Avenue, NW, Washington DC 20210, for entry of a Final Order. See 29 C.F.R. § 1978.109(a) and 1978.109(c). The parties may file with the Administrative Review Board briefs in support of or in opposition to Recommended Order Approving Settlement within thirty days of the issuance of this Recommended Decision unless the Administrative Review Board, upon notice to the parties, establishes a different briefing schedule. 29 C.F.R. § 1978.109(c).